

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Matthew Whittington,

Plaintiff,

—v—

Commissioner Joseph Ponte, et al.,

Defendants.

16-cv-1152 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On October 23, 2018, the Court received a letter from Plaintiff in this action with the subject line “Immediate Injunctive Relief.” Dkt. No. 121. Plaintiff’s letter states that he wishes to “do or attempt [his] interrogatories and requests of the defendants.” *Id.* In addition, Plaintiff alleges retaliation and harassment in his current confinement at the Attica Correctional Facility and seeks “immediate injunctive relief.” On October 25, 2018, Magistrate Judge Barbara Moses issued an Order addressing Plaintiff’s discovery request and recommending the denial of his request for injunctive relief. Dkt. No. 122. On November 5, 2018, Plaintiff submitted a letter containing written objections to the Report and Recommendation. Dkt. No. 126. Defendants did not file any written objections.

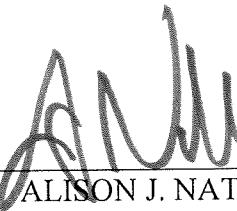
The Court reviews de novo the portions of the Report and Recommendation to which timely objections were made. *See, e.g., Beller v. Astrue*, No. 12 CV 5112 VB, 2013 WL 2452168, at *1 (S.D.N.Y. June 5, 2013) (citing 28 U.S.C. § 636(b)(1)(C)). The Court has considered Magistrate Judge Moses’ Report and Recommendation and Plaintiff’s written submission regarding objections. Judge Moses concluded that the requested injunctive relief is unavailable because Plaintiff’s allegations concern alleged harassment and retaliation by individuals who are not parties to this case. *See Doctor’s Associates, Inc. v. Reiner & Duree*,

P.C., 191 F.3d 297, 302 (noting that, in general, “a court cannot make a decree which will bind any one but a party”) (internal quotation marks omitted). In his objections to the Report, Plaintiff alleges that his release date was miscalculated by Riker’s Island, which is operated by the City of New York, a Defendant in this case. Dkt. No. 126. However, even accepting this allegation as true, injunctive relief is unavailable against the City of New York because Plaintiff is no longer incarcerated at Riker’s Island. *See, e.g., Thompson v. Carter*, 284 F.3d 411, 415 (2d Cir. 2002) (“A prisoner’s transfer to a different correctional facility generally moots his request for injunctive relief against employees of the transferor facility.”).

Finding no error in Judge Moses’ report, the Court hereby overrules Plaintiff’s objections and adopts the Report and Recommendation in full as the opinion of the Court. The Court thus denies the Plaintiff’s request for a preliminary injunction.

SO ORDERED.

Dated: December 3, 2018
New York, New York



ALISON J. NATHAN
United States District Judge